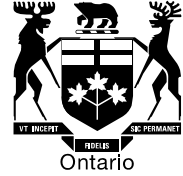


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BY EMAIL

September 8, 2011

Board Secretary
Ontario Energy Board
2300 Yonge Street,
Ste. 2701
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Board Staff Submission
Electricity Transmission Licence Application EB-2011-0222
Upper Canada Transmission Inc.**

Please find enclosed Board Staff's Submission for the above mentioned proceeding.

Please forward this submission along with this cover letter to the applicant and all intervenors in this proceeding.

Yours truly,

Original Signed By

Irina Kuznetsova
Case Manager

Attachment



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Electricity Transmission Licence Application

Upper Canada Transmission Inc.

EB-2011-0222

September 8, 2011

Upper Canada Transmission Inc. ("Upper Canada") filed an application with the Ontario Energy Board, received on June 3, 2011, under section 60 of the *Ontario Energy Board Act, 1998*. Upper Canada stated that it is making this application in order to participate in the Board's upcoming transmission designation processes for new transmission investment in Ontario.

The Board issued a Notice of Application and Hearing on June 20, 2011. Procedural Order No. 1 was issued on July 8, 2011, providing for interrogatories and submissions.

Board staff and intervenors filed interrogatories on July 20, 2011. On July 28, 2011 Upper Canada filed a letter with the Board requesting an extension of time to file its responses to interrogatories. On August 2, 2011 the Board issued Procedural Order No. 2 granting the requested extension. Upper Canada filed its interrogatory responses on August 26, 2011.

This submission is being provided by Board staff following a review of the application and evidence filed in this proceeding.

STAFF SUBMISSION

The Board Policy Framework for Transmission Project Development Plans [EB-2010-0059] issued on August 26, 2010 contemplates that the Board will evaluate the financial viability and technical capabilities of new entrant transmitters during the licensing process. In reviewing a licence application, Board staff assesses the applicant's technical capability, financial viability and its conduct. Based on the evidence provided in Upper Canada's application and in its responses to interrogatories, Board staff submits that Upper Canada meets the threshold qualification requirements for a transmission licence.

In the cover letter accompanying its application Upper Canada also requested a temporary exemption from the Board's *Affiliate Relationships Code for Electricity Distributors and Transmitters* ("ARC") and *Electricity Reporting and Record Keeping Requirements* ("RRR") until such time as it becomes designated by the Board as a transmission developer or owns and/or operates transmission facilities in Ontario.

In response to Board staff's interrogatory No. 3 Upper Canada withdrew its request for a temporary exemption from the RRR and amended its request for a temporary exemption from the ARC, instead requesting a temporary exemption only from section 2.1.2 of the ARC until it is designated to develop a particular transmission project in Ontario or it acquires transmission assets in Ontario. Upper Canada stated that until it is awarded an opportunity to develop transmission assets the requirement of this section of the ARC that at least one-third of Upper Canada's Board of Directors will be independent of any Upper Canada affiliate will serve no protective function and also would present an administrative cost and corporate governance complication.

In Board staff's view, the Board has already stated its position that a licensee's compliance with Board regulatory instruments is mandatory, especially those instruments dealing with affiliate relationships. Board staff submits that the ARC-related exemptions sought by other transmission licence applicants have all been denied by the Board, with the exception of Chatham-Kent Transmission Inc.'s decision where an exemption was granted due to the applicant's "unique circumstance where the transition to conformity with the ARC is more complicated than the usual case... [and]...only until December 31, 2011"¹. In Board staff view, Upper Canada has not provided sufficient evidence to persuade the Board that there are such unique circumstances that would justify the granting of the requested exemption from the ARC. Moreover, in the Board's decision with respect to the ARC exemption sought by AltaLink Ontario Management Ltd. on behalf of AltaLink Ontario L.P. the Board denied the exemption sought and clearly stated that "...it is important that no applicant for designation have an unfair advantage over other applicants in that process."² In Board staff's view, the granting of the requested ARC exemption to Upper Canada may potentially disadvantage other transmitters licensed to participate in the Board transmitter designation process.

Accordingly, Board staff submits that the exemption request should be denied.

All of which is respectfully submitted.

¹ May 24, 2011 Decision and Order on the application by Chatham-Kent Transmission Inc. for an electricity transmission licence, page 10. [EB-2010-0351]

² August 31, 2011 Decision and Order on the application by AltaLink Ontario Management Ltd. on behalf of AltaLink Ontario L.P. for an electricity transmission licence, page 8. [EB-2011-0126]